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DA drops charges against Metro-North official

By Abby Luby

Last March, 17,000 gallons of oil were spilled at Metro-North's Harmon Rail Yard in Croton, resulting in the arrest of Kenneth McHale, assistant director of environmental compliance and services for the Metro-North. McHale first saw the oil spill on the floor of the pump station and reported what he thought was only a five-gallon spill to the Westchester County Police.

But the spill turned out to be much bigger and McHale was charged by the Westchester County District Attorney with violating the New York Environmental Conservation Law for "endangering public health, safety or the environment," a class A misdemeanor.

Last week, charges against McHale were dropped.

"We adjourned McHale's case contemplating dismissal," said Lucien Chalfen, spokesperson for the Westchester District Attorney's office. "That means that in six months, if he hasn't been arrested for anything, the case will be sealed."

That McHale was charged for what was considered an accident was deeply troubling, said Metro-North spokesperson Marjorie Anders.

"This is the guy who reported the spill and who took action to stop the spill. The fact that he was charged was a classic case of shooting the messenger," Anders added. "We are delighted that the criminal proceedings are terminated."

The spill was apparently caused by a disconnected pipe that was supposed to funnel excess or spilled oil into a catch basin. The pipe was temporarily disconnected as part of the ongoing construction at the Harmon Yard causing oil to flow into the surrounding soil.

Two days after the spill, the Hudson River watchdog group

Riverkeeper received an anonymous tip that 17,000 gallons of diesel fuel – not five gallons – had leaked directly into the soil. Riverkeeper notified the state Department of Environmental Conservation (DEC) about the discrepancy and Metro-North confirmed the spill was larger than estimated.

The DEC hit Metro-North with a fine for violating solid waste regulations. The fine was \$1,500, an amount that Josh Verleun, staff attorney of Riverkeeper, said was insignificant.

“We definitely think this fine doesn’t fit the seriousness of the initial charges and the seriousness of the spill that occurred,” Verleun said.

Verleun did say that Riverkeeper was happy with Metro-North’s cleanup efforts and relieved that no oil had entered the Hudson River.

State environmental law stipulates that fines for non-criminal violations are \$1,500, according to Chalfen. “But Metro-North took accountability and spent half a million dollars in terms of remediation, retraining and implementing changes in the procedures,” he said.

According to Metro-North, almost all of the 17,000 gallons of spilled fuel were recovered, with 12,500 recovered gallons to be used in the train yard’s heating plant.

Contaminated soil was removed and disposed in regulated landfills. Metro-North vacuumed more than 14,000 gallons of fuel from the ground, and replaced it with rock.

Approximately 600 tons of contaminated soil were removed.

Westchester County Police Director of Environmental Security Ron Gatto, who was first called about the spill, said there is a follow-up process now in place in case of future spills including a special spill line to call if a similar accident happens in the future: 1-800 Spill Line. Metro-North is doing everything they are required to do as far as cleanup goes,” Gato said.

According to Anders of Metro-North, several measures have been taken to prevent more spills.

“The entire fueling system was inspected and overhauled, an enhanced leak detection system was installed and underground pipes were moved above ground,” he said.

Other improvements include installing stronger valves and a soon-to-be-installed new automatic shut-off system. The railroad has also installed a network of interconnected

wells to mitigate any unrecovered fuel. Improvements to the locomotive refueling system have also been made to prevent any reoccurring spills.

“Last spring’s oil spill was an anomaly, it wasn’t really an operating problem, it was a construction snafu,” said Anders. “It’s not something we want to repeat.”